IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

TUESDAY, THE 23RD JANUARY 2007 / 3RD MAGHA 1928

WP(C).No. 15957 of 2006(Y)

AA.129/2000 of APPELLATE AUTHORITY (LR), KANNUR

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PETITIONER:

JABIR, S/O.LATE MEETHALE PURAYIL IBRAHIM
KURUMATHUR VILLAGE, P.O.KARIMBAM,
TALIPARAMBA TALUK.

BY ADV. SRI.C.MURALIKRISHNAN (PAYYANUR)

RESPONDENTS:

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1. T.K.SREEDHARAN,
S/O.LATE PANAKKADAN VEETTIL KRISHNAN NAMBIAR,
PANAKKADAN VEEDU, KURUMATHOOR, P.O.KARIMBAM.

2. T.K.SANTHA KUMARI,
D/O.LATE PANAKKADAN VEETTIL KRISHNAN NAMBIAR,
PANAKKADAN VEEDU, KURUMATHOOR, P.O.KARIMBAN.

3. T.K.DIVAKARAN,
S/O.LATE PANAKKADAN VEETTIL KRISHNAN NAMBIAR,
PANAKKADAN VEEDU, KURUMATHOOR, P.O.KARIMBAM.

4. THANIREKIZHIL MARIYAM,
W/O.LATE KAKKOTTAKKATH MEETHALE PURAYIL IBRAHIM,
KURUMATHOOR, P.O.KARIMBAN.

5. MUBEENA, D/O.MEETHALE PURAYIL IBRAHIM,
KURUMATHOOR, P.O.KARIMBAM.

6. SAMEENA, D/O.MEETHALE PURAYIL IBRAHIM,
KURUMATHOOR, P.O.KARIMBAM.

7. SAJIR AHAMMED,
S/O.MEETHALE PURAYIL IBRAHIM,
KURUMATHOOR, P.O.KARIMBAM.

8. SAKIR HUSSAIN,
S/O.MEETHALE PURAYIL IBRAHIM, KURUMATHOOR,
P.O.KARIMBAM.

9. SALIHA, D/O.MEETHALE PURAYIL IBRAHIM,
KURUMATHOOR, P.O.KARIMBAM.

10. K.M.BUSHRA, D/O.HAMZA, BELLA AMSOM DESOM
HOSDRUG TALUK, KANHANGAD, P.O.BELLA.

11. K.P.PARAMESWARAN NAMBOODIRIPAD,
S/O.K.NARAYANAN NAMBOODIRIPAD,
KURUMATHOOR ILLAM, P.O.KURUMATHOOR,
KANNUR DISTRICT.

12. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVT. DEPARTMENT OF LAND REVENUE,
THIRUVANANTHAPURAM.

BY ADV. SRI.ABRAHAM GEORGE JACOB FOR R4 TO R10
SRI.T.A.RAMADASAN FOR R1 TO R3 AND R11
GOVERNMENT PLEADER, SRI.V.T.K.MOHANAN FOR R12

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXT.P1 TRUE COPY OF THE AFFIDAVIT FILED BY PANAKKADAN VEETIL KRISHNAN NAMBIAR, THE PETITIONER IN IA 249/2000 IN AA 129/2000

EXT.P2 TRUE COPY OF THE COUNTER FILED BY THE PREDECESSOR IN INTEREST OF THE PETITIONER IN IA 249/2000

EXT.P3 TRUE COPY OF THE ORDER DATED 23/05/2000 IN AA NO.548/97 SETTING ASIDE THE ORDER IN SMP 347/87 GRANTED IN FAVOUR OF PANAKKADAN VEETIL KRISHNAN NAMBIAR

EXT.P4 TRUE COPY OF ORDER IN IA 249/2000 OF APPELLATE AUTHORITY, KANNUR

\\TRUE COPY//

M.SASIDHARAN NAMBIAR,J.

W.P.(C)NO.15957 OF 2006

DATED THIS THE 23rd DAY OF JANUARY, 2007

JUDGMENT

Petitioner is seventh respondent in A.A.129/2000 on the file of Appellate Authority (Land Reforms) Kannur. Appeal was filed by Panakkadan Veetil Krishnan Nambiar, who is no more. On the death of appellant, respondents 1 to 3 were impleaded as additional appellants. The appeal was filed challenging the order passed by Land Tribunal in S.M.P.295/1986 with an application to condone the delay. Under Ext.P4 order, Appellate Authority condoned the delay. This petition is filed challenging that order.

2. Learned Counsel appearing for petitioner and respondents were heard.

3. Arguments of learned Counsel appearing for petitioner was that the purchase certificate granted in favour of original appellant was challenged by petitioner and others in A.A.548/97 before Appellate Authority and under Ext.P3 order, the purchase certificate granted was set aside and no appeal was filed immediately on receipt of the notice in A.A.548/97 and in such circumstances, Appellate Authority should not have condoned the delay as has been done in Ext.P4. It was also

argued that under Ext.P3 order, the purchase certificate obtained by predecessor in interest of respondents was set aside and therefore they have no right to challenge the order in favour of petitioner and others and therefore the Appellate Authority should not have condoned the delay.

4. Learned Counsel appearing for respondents pointed out that challenging Ext.P3 order the filed C.R.P.126/01 and it is pending before this Court and in such circumstances, respondents have a right to file an appeal and there is no reason to interfere with Ext.P4 order.

5. On hearing learned Counsel appearing for petitioner and respondents, it is clear that both the predecessor in interest of petitioner and predecessor in interest of respondents, obtained orders from Land Tribunal in separate proceedings. Petitioner and others challenged the order in favour of the predecessor in interest of the respondents in A.A.548/97 and got it set aside under Ext.P3 order, which is now pending before this Court. Similarly the order in favour of predecessor of petitioner was challenged in A.A.129/2000. The predecessor in interest of respondents are not parties to S.M.P. Proceedings, before the purchase certificate was issued in favour of predecessor in interest of petitioner. In such circumstances, I do not find any reason to interfere with the discretion exercised by the Appellate Authority in Ext.P4 order when the result of the order is

only to enable a decision on merits, in the claim of the tenancy raised by petitioner and others.

The petition is dismissed. Appellate Authority (Land Reforms), Kannur is directed to dispose A.A.129/2000 as expeditiously as possible and at any rate within six months from the date of receipt of a copy of this judgment.

M.SASIDHARAN NAMBIAR,JUDGE

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